

REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 1, 3-9 and 12-23 were pending in the present application. Claim 23 has been amended to more particularly point out and distinctly claim the subject matter of the present invention.

In the outstanding Official Action, claim 23 was rejected under 35 USC §112, second paragraph, as allegedly being indefinite. Applicants believe that the present amendment obviates this rejection.

The Official Action alleged that the term "said absorbent product" lacked antecedent basis. However, claim 23 has been amended so that it is now dependent on claim 22. As claim 22 recites "an absorbent product", it is believed that claim 22 provides proper antecedent basis for the term "said absorbent product" recited in claims 23. As a result, it is believed that claim 23 is definite to one of ordinary skill in the art.

Claims 1, 3-9, 12-16 and 20-21 were rejected under 35 USC §102(b) as allegedly being anticipated by or, in the alternative, under 35 USC §103(a) as allegedly obvious over REID et al. This rejection is respectfully traversed.

In imposing the rejection, the official Action stated that REID et al. disclose compositions that are used to prevent urogenital infections. The Official Action alleged that these compositions contained a bacterial strain *Lactobacillus plantarum* ATCC 55883. The Official Action alleged that the claimed strain appeared to be of the same genus and species as that of strain ATCC 55883.

The Official Action alleged that the claimed strain would exhibit the same properties as strain ATCC 55883. As a result, the Official Action believed that strain ATCC 55883 anticipated and/or rendered obvious the claimed invention. However, applicants believe that the claimed strain is distinct from bacterial strain *Lactobacillus plantarum* ATCC 55883. As evidence of this assertion, the Examiner's attention is respectfully directed to the declaration by Maria ISAKSSON.

The declaration directly compares the claimed strain to bacterial strain *Lactobacillus plantarum* ATCC 55883 described by REID et al. The strain was provided by the American Type Culture Collection. Applicants believed that the declaration clearly demonstrates that bacterial strain *Lactobacillus plantarum* ATCC 55883 is distinct from the claimed strain.

Indeed, the declaration shows that strain ATCC 55883 was typed and identified by using API 50 CH. The results indicate that the strain is not a *Lactobacillus plantarum* strain,

but a *Lactobacillus crispatus* (See page 2 of declaration).

The declaration also compares the ability of each strain to inhibit or kill pathogens. The declaration clearly demonstrates that there is a pronounced difference in the ability of the strains to inhibit and kill common urogenital pathogens. The claimed strain immediately inhibited all pathogens and killed all pathogens by 25 hours after inoculation. However, strain ATCC 55883 exhibited a limited ability to inhibit the same pathogens (see Figures 1, 2, 3 and 4 of declaration). Thus, upon reviewing the declaration, applicants believe that it is apparent that the claimed strain is distinct from strain ATCC 55883.

As a result, it is believed that REID et al. fail to anticipate or render obvious claims 1, 3-9, 12-16 and 20-21.

Claims 17-19 and 22-23 were rejected under 35 USC §103(a) as allegedly being unpatentable over REID et al. in view of WO 97/02846. This rejection is respectfully traversed.

In imposing the rejection, the Official Action alleges that WO 97/02846 discloses a composition comprising *Lactobacillus plantarum* and an absorbent article. The Official Action further alleges that the substitution of *Lactobacillus plantarum* strain ATCC 55883 for the generic strain set forth in WO 97/02846 would be obvious. However, as noted above, REID et al. fail to teach the claimed strain. Moreover, the WO 97/02846 publication does not disclose or suggest the claimed strain. Thus, applicants

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believe that the WO 97/02846 publication fails to remedy the deficiencies of REID et al.

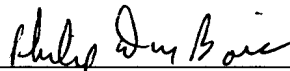
Thus, it is believed that the proposed combination of REID et al. in view of WO 97/02846 fails to render obvious the claimed invention.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance, with claims 1, 3-9 and 12-23, as presented. Allowance and passage to issue on that basis are accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item:

- Declaration of Maria Isaksson Under 37 C.F.R. §1.132